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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4439

12 **YVETTE MEDINA**
13 **830 Nashua Street**
14 **La Habra, CA 90631**

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 86170**

Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about December 1, 2008, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 86170 to Yvette Medina (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on April 30, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300(a) of the Code states that "[e]very license issued may be suspended or revoked."

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

6. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

7. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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8. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

• • • •

(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

• • •

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

(p) Actions or conduct that would have warranted denial of a license.

9. Health and Safety Code section 11350 states, in pertinent part:

(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or . . . specified in subdivision (b) or (c) of Section 11055 . . . , unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

COST RECOVERY

10. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

11. Cocaine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(6), and is a dangerous drug pursuant to Business & Professions Code section 4022.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Illegal Possession of a Controlled Substance – Cocaine – on February 8, 2012)

12. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and (o) of the Code on the grounds of unprofessional conduct, in that she was in possession of the controlled substance and dangerous drug, cocaine, without a prescription in violation of section 4060 of the Code and Health and Safety Code section 11350. The circumstances are as follows:

13. On February 8, 2012, at approximately 12:30 a.m., La Habra Police Department Officers, while on routine patrol, observed a vehicle with tinted windows, in violation of the Vehicle Code, and performed a traffic stop in La Habra, California. When officers contacted the driver (Respondent), officers smelled a strong odor of marijuana emitting from inside the vehicle. Officers asked Respondent if she had any illegal items on her person or in her vehicle, and Respondent told officers she had a small amount of marijuana in the center console area. Respondent consented to a search of her vehicle and officers performed a search for illegal contraband. Officers located a clear tube container with a lid and inside the container was a green leafy substance consistent with marijuana. Officers located a black purse in the rear passenger seat and inside the purse officers located a clear plastic baggie which contained a substance the officers recognized to be consistent with cocaine. Officers asked Respondent who the purse belonged to and Respondent told officers the purse belonged to her and that she believed the white substance was cocaine. Respondent told officers that she had been at a bar in the city of Bellflower a couple of days before and while in the restroom of the bar, a female approached her and gave her the baggie of cocaine. The white power (0.33 grams) was subsequently analyzed and tested positive for cocaine.

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PRAYER

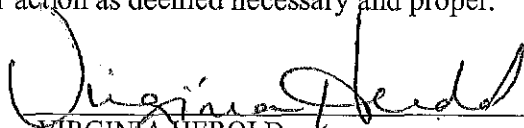
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 86170 issued to Yvette Medina;

2. Ordering Yvette Medina to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 3/1/13


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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